

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY ARTEAGA,

Plaintiff,

No. CIV S-03-1004 FCD KJM P

vs.

EDWARD ALAMEIDA, Jr., et al.,

Defendants.

ORDER

On August 10, 2007, defendants filed their motion to seal confidential Exhibits K, L, and M to their motion for summary judgment. The Court ordered Exhibit L to be sealed. The Court ordered that Exhibit M to be filed and served on the plaintiff, as Exhibit M was already in the public record. The request to seal Exhibit K was denied without prejudice on the grounds that some portions of the document were illegible. On August 16, 2007, defendants resubmitted legible copies of Exhibit K for the court's consideration. As Exhibit M has already been disclosed, plaintiff's opposition is relevant only to Exhibits K and L.

According to the defendants' motion, Exhibit K is a confidential memorandum that identifies plaintiff as communicating with known EME/Mexican Mafia prison gang members, as well as the written materials upon which the memorandum was written. Exhibit L

1 is a copy of written material found in plaintiff's personal property that demonstrates plaintiff's  
2 active participation in gang activity, as well as memoranda describing the written material.

3 Defendants argue there are legitimate institutional concerns that justify the denial  
4 of access to these confidential documents. In support of their motion, defendants have submitted  
5 the declaration of J. Peterson, who was the Institutional Gang Investigator at High Desert State  
6 Prison when the plaintiff was validated as a member of the Mexican Mafia. Peterson states that  
7 disclosure of Exhibit K to a validated member of the Mexican Mafia could jeopardize  
8 institutional safety and security, ongoing investigations, and promote further gang activity.

9 Plaintiff opposes defendants' motion to seal Exhibits K and L on the grounds that,  
10 without the documents' disclosure, he will be unable to adequately prosecute his due process  
11 claim. In his opposition, plaintiff references Title 15 of the California Code of Regulations  
12 (CCR), which states that Staff shall disclose material evidencing gang activity to the inmate in a  
13 written form that would not jeopardize the safety of any person or the security of the institution.  
14 Cal. Code Regs. tit. 15, §3328(8)(L).

15 Declarant Peterson indicates that disclosing the confidential information contained  
16 in Exhibits L and K to plaintiff could seriously threaten the ongoing prison investigations into  
17 gang activity and endanger the safety of other inmates. The court finds that these legitimate  
18 institutional concerns justify the denial of access by plaintiff to the confidential memoranda in  
19 accord with due process.

20 Alternatively, plaintiff asks to review the confidential material in "redacted" form.  
21 Defendants argue, however, that simply redacting confidential materials is not sufficient in light  
22 of the concerns regarding gang activity. Under the CCR, if an inmate is validated as a gang  
23 member based on confidential information, the inmate must be provided with a Confidential  
24 Disclosure Form, which contains a brief description of the material in his central file.  
25 Defendants indicate that the plaintiff was provided with the disclosure form and also was  
26 provided a description of the confidential materials in the written responses to his inmate

1 appeals. Plaintiff does not dispute this in his opposition. Due to the sensitive nature of the  
2 documents, defendants argue that providing "redacted" copies of Exhibits K and L to the plaintiff  
3 might still negatively impact prison security and ongoing gang-activity investigations. Based on  
4 the record before it, the court agrees.

5 IT IS HEREBY ORDERED that:

6 1. Exhibit L shall remain under seal.

7 2. Defendants' motion to seal Exhibit K in support of their motion for summary  
8 judgment is granted. The Clerk of the Court is directed to scan Exhibit K, maintain it under seal,  
9 and return the paper copy to defendants' counsel.

10 DATED: October 22, 2007.

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13 U.S. MAGISTRATE JUDGE  
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